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INITIATIVE 227

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 227 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to health care access; amending RCW 41.05.11 and
2 41.05.55; reenacting and amending RCW 48.43.005; adding new sections to
3 chapter 41.05 RCW; adding a new section to chapter 48.43 RCW; adding
4 new sections to chapter 74.09 RCW; adding a new section to chapter
5 43.145 RCW; creating new sections; repealing RCW 48.43.075, 48.43.095,
6 and 48.43.105; and providing an effective date.

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

8 NEW SECTION. Sec. 1 (1) We, the people of Washington state, find
9 that many state residents cannot buy affordable, comprehensive health
10 insurance, especially in rural areas of the state. Many health plans
11 fail to cover necessary health care, such as maternity care and life-
12 saving medical procedures. Further, when employers make health plans
13 available, many workers cannot afford to pay for these plans out of
14 their own pockets. The lack of affordable, comprehensive health
15 insurance hurts residents and their families by restricting access to
16 necessary health care and draining already limited household budgets.

17 (2) The people of Washington therefore intend by this act to
18 protect the rights of all residents enrolled in health plans and to
19 permit residents, regardless of their health or where they live, to

1 purchase coverage in the Washington health insurance plan. In
2 addition, the people intend by this act to provide low cost,
3 comprehensive health insurance for state residents by requiring that
4 certain state health care purchasing be consolidated, administered by
5 the health care authority, and modified to reduce costs, increase
6 efficiencies, and maximize available revenues.

7 NEW SECTION. Sec. 2. A new section is added to chapter 48.43 RCW
8 to read as follows:

9 (1) To protect and ensure the rights of enrollees, all carriers,
10 and public and private health plans and programs subject to the
11 jurisdiction of the state, shall:

12 (a) Disclose information regarding benefits, limitations,
13 exclusions, health care providers and facilities, covered drugs,
14 grievance procedures, and related information prior to and at the
15 time of coverage by the plan or program;

16 (b) Adopt, implement, and disclose policies and procedures
17 governing the collection, use, and disclosure of personally
18 identifiable health information. Such policies and procedures shall
19 conform to rules adopted by the insurance commissioner for the
20 necessary protection of the public's right to privacy consistent with
21 the fair administration of such plans and programs;

22 (c) Adopt and implement a fair method of resolution of disputes
23 with a plan or program and shall afford the right to a timely,
24 independent review of any decision by the plan or program to modify,
25 discontinue, or deny access to or payment for a significant health
26 service;

27 (d) Adopt and implement health care utilization review standards
28 and clinical protocols with the advice and consent of participating
29 providers and facilities; and

30 (e) Maintain health care networks with a sufficient number and
31 type of health care providers and facilities to ensure enrollees
32 timely access to covered health care services, information and
33 referrals.

34 (2) A carrier or other insurer and any person acting on its
35 behalf that limits or denies access to or payment for health care
36 services is liable for any harm to the covered person, unless the
37 limitation or denial meets accepted community health care standards.

(3) No carrier or other insurer shall engage in any act or practice that would prevent or limit a person from exercising a right to health care service or coverage under any state or federal law.

(4) A carrier or other insurer is responsible for compliance with the provisions of this chapter and is responsible for the compliance of any person acting on its behalf, at its direction, or under carrier standards or requirements concerning the coverage of, payment for, or provision of health care services.

(5) The insurance commissioner shall adopt rules necessary to implement this section. In adopting such rules the commissioner shall take into consideration the model laws and regulations adopted by the National Association of Insurance Commissioners, standards recommended by national managed care accreditation organizations, and current policies and procedures of state agencies.

NEW SECTION. Sec. 3. A new section is added to chapter 41.05 RCW to read as follows:

There is created the Washington health insurance plan that shall be available state-wide. Effective July 1 following the adoption of this act, the following programs shall be administered by the Washington health care authority as separate programs under joint procurement and, to the greatest extent possible, joint risk-sharing mechanisms: the public employee benefit plans established under this chapter; the basic health plan established under chapter 70.47 RCW, medicaid programs, state funded medical assistance, and the children's health insurance program established under chapter 74.09 RCW, Titles XIX of the social security act (42 U.S.C. section 1396, et seq.), and XXI of the social security act (42 U.S.C. section 1396, et seq.). The plan shall be administered in accordance with the following standards:

(1) All state residents and small employer groups shall be eligible to enroll in the plan in accordance with this act.

(2) State residents and small employer groups enrolling or renewing enrollment in the plan must contract with the plan to pay premiums for a twelve-month period. State residents or small employer groups who reenroll after terminating coverage without good cause, shall pay a twenty-five percent surcharge on their premiums for one year.

1 (3) Plan premiums shall be set only with regard to age and family
2 composition. The plan shall prorate the premiums for any medicare
3 supplemental policy on the basis of the actuarial value of the
4 medicare supplemental benefit schedule relative to the plan benefit
5 schedule.

6 (4) The plan may not impose a preexisting waiting period or
7 similar limitations for pregnancy, and may not impose a preexisting
8 waiting period for other conditions that exceed that authorized by
9 chapter 48.43 RCW as it existed on July 1, 1999.

10 (5) Plan health services and health service delivery must comply
11 with the requirements of the medicaid programs under chapter 74.09
12 RCW and Title XIX of the social security act (42 U.S.C. section 1396,
13 et seq.), and 48.43 RCW for all enrollees, and must be at least
14 substantially equivalent to the extent, duration, and scope of health
15 services available through medicaid programs on January 1, 1999.

16 (6) Plan health services must include an option for medicare
17 supplemental health insurance plan which may be offered as a medicare
18 plus choice plan in accordance with Title XVIII of the Social
19 Security Act, 42 U.S.C. Sec. 1395 et seq.

20 (7) The plan shall, to the maximum extent possible, integrate
21 plan health services with other services provided eligible enrollees
22 by the department of social and health services and the department of
23 health.

24 (8) No public employee may be charged more or receive fewer
25 benefits as a consequence of this act. Plan premiums and enrollee
26 cost-sharing requirements must be designed to prevent adverse
27 financial impacts upon public employees' benefits. Benefits provided
28 public employees shall be no less than provided under chapter
29 41.05.065 RCW.

30 (9) The Washington health insurance plan board, established in
31 RCW 41.05.055, may temporarily suspend enrollment of new private pay
32 small employer groups and new private pay residents who are not
33 enrolling as members of enrolled small employer groups when the board
34 projects that plan premiums will increase by more than twice the
35 implicit price deflator for all items as determined by the office of
36 financial management.

37 (10) Residency verification shall be consistent with the
38 requirements of chapter 74.08.100 RCW.

1 NEW SECTION. Sec. 4. A new section is added to chapter 41.05
2 RCW to read as follows:

3 The Washington health care authority shall be the administrator
4 of the Washington health insurance plan effective July 1 following
5 the adoption of this act. All necessary personnel, facilities,
6 supplies, and other financial and nonfinancial resources to create
7 and operate the Washington health insurance plan shall be derived
8 from existing agencies.

9 (1) The health care authority is hereby granted the powers,
10 duties, and functions of the medical assistance administration under
11 chapter 74.09 RCW. All applicable references to the secretary of the
12 department of social and health services in chapter 74.09 RCW shall
13 be construed to mean the administrator of the health care authority.

14 (2) The health care authority shall directly contract with or
15 purchase health care services from health care providers, facilities,
16 local public health agencies, and nonprofit community organizations
17 that serve low-income and under-served populations, and may contract
18 with health carriers, to the extent necessary to provide health
19 services for the benefit of enrollees under the plan.

20 (3) The health care authority shall design reimbursement methods
21 that minimize overutilization of health services and maximize the
22 provision of quality, medically necessary health services. The
23 health care authority shall require any contracted entity, which is
24 transferring to any subcontractor the financial risk for the
25 provision of health services, to obtain guarantees that the
26 subcontractor is financially capable of assuming that risk and
27 capable of complying with the plan's applicable contractual
28 requirements.

29 (4) The health care authority shall calculate a case rate for
30 coverage of pregnancy and social security insurance-related health
31 conditions that would qualify financially eligible enrollees for
32 medicaid programs under 74.09 RCW. The health care authority shall
33 use risk-adjustment methodologies to calculate an actuarially sound
34 case rate for each qualifying condition on the basis of functional
35 status and the average cost for providing health services necessary
36 to treat those conditions. The health care authority may not include
37 the case rate costs for these conditions when calculating the plan
38 premiums. The health care authority shall charge the medicaid
39 programs, state funded medical assistance, and the children's health

1 insurance program for the case rate costs incurred by enrollees
2 eligible for those programs. The health care authority shall charge
3 the Washington health insurance plan financial participation program,
4 established in this section, for the case rate costs incurred by
5 enrollees who are not eligible for the medicaid programs, state
6 funded medical assistance, and the children's health insurance
7 program.

8 (5) The health care authority shall design and implement an
9 operations plan and the Washington health insurance plan financial
10 participation program that is substantially equivalent to that in RCW
11 48.41.050 and chapter 48.41.090. All health carriers, the Washington
12 health insurance plan, and all insurers who issue stop loss policies
13 shall participate in the Washington health insurance plan financial
14 participation program. The contributions collected under this
15 section shall be deposited into the Washington health insurance plan
16 account established in section 12 of this act.

17 (6) The health care authority is authorized and required to
18 maximize, to the greatest extent possible, the availability of
19 federal funding by raising income eligibility standards and
20 certification periods for individual enrollees as permitted Title XIX
21 of the social security act (42 U.S.C. Sec. 1396, et seq.), and Title
22 XXI of the social security act (42 U.S.C. Sec. 1396, et seq.).

23 (7) The health care authority shall apply for any waivers under
24 Title XIX of the social security act (42 U.S.C. Sec. 1396, et seq.),
25 and Title XXI of the social security act (42 U.S.C. Sec. 1396, et
26 seq.) necessary for the medicaid programs and the children's health
27 insurance program established under chapter 74.09 RCW to participate
28 in a joint risk-sharing mechanism.

29 (8) The health care authority shall adopt all rules necessary to
30 implement this act.

31 (9) The health care authority shall maintain existing bargaining
32 agreements until a new bargaining agreement is negotiated exclusively
33 with agency employees.

34 (10) The health care authority shall administer the Washington
35 health insurance plan in consultation with the Washington health
36 insurance plan board, established in RCW 42.05.055, in accordance
37 with the health benefit design approved by the board.

1 Sec. 5. RCW 41.05.055 and 1995 1st sp.s. c 6 s 4 are each
2 amended to read as follows:

3 (1) ~~((The public employees' benefits))~~ Effective April 1
4 following the adoption of this act, the Washington health insurance
5 plan board is created within the authority. The function of the
6 board is to design and approve ((insurance benefit plans)) health
7 service benefit design for ((state employees and school district
8 employees)) the enrollees of the Washington health insurance plan.

9 (2) The board shall be composed of nine members appointed by the
10 governor as follows:

11 (a) ~~((Two))~~ Three representatives of state employees ~~((one))~~ two
12 of whom shall represent an employee union certified as exclusive
13 representative of at least one bargaining unit of classified
14 employees, and one of whom is retired, is covered by a program under
15 the jurisdiction of the board, and represents an organized group of
16 retired public employees;

17 (b) Two representatives of school district employees, one of whom
18 shall represent an association of school employees and one of whom
19 ~~((is retired, and represents))~~ shall represent an organized group of
20 retired school employees;

21 (c) ~~((Four members with experience in health benefit management~~
22 ~~and cost containment))~~ Two members who represent nonprofit
23 organizations that advocate on behalf of Washington health insurance
24 plan enrollees who are not public employees; and

25 (d) The administrator and the secretary of health.

26 ~~(3) The member who represents an association of school employees~~
27 ~~and one member appointed pursuant to subsection (2)(c) of this~~
28 ~~section shall be nonvoting members until such time that there are no~~
29 ~~less than twelve thousand school district employee subscribers~~
30 ~~enrolled with the authority for health care coverage.~~

31 ~~(4)~~ (3) By April 1 following the adoption of this act the
32 governor shall appoint the initial members described in sections (a)
33 through (c) of this section of the board to staggered terms not to
34 exceed four years. Members appointed thereafter shall serve two-year
35 terms. Members of the board shall be compensated in accordance with
36 RCW 43.03.250 and shall be reimbursed for their travel expenses while
37 on official business in accordance with RCW 43.03.050 and 43.03.060.
38 The board shall prescribe rules for the conduct of its business. The

1 administrator shall serve as chair of the board. Meetings of the
2 board shall be at the call of the chair.

3 (4) By May 1 following the adoption of this act and whenever the
4 position of the administrator is vacated, the members of the board
5 described in sections (2) (a) through (c) of this section shall
6 nominate three candidates from among whom the governor shall select
7 an administrator within thirty days. A majority of these board
8 members may recommend that the governor remove an administrator.

9 Sec. 6 RCW 48.43.005 and 1997 c 231 s 202 and 1997 c 55 s 1 are
10 each reenacted and amended to read as follows:

11 Unless otherwise specifically provided, the definitions in this
12 section apply throughout this chapter, 41.05 RCW, and sections 2
13 through 4, and 8 through 16 of this act.

14 (1) "Adjusted community rate" means the rating method used to
15 establish the premium for health plans adjusted to reflect
16 actuarially demonstrated differences in utilization or cost
17 attributable to geographic region, age, family size, and use of
18 wellness activities.

19 (2) "Basic health plan" means the plan described under chapter
20 70.47 RCW, as revised from time to time.

21 (3) "Basic health plan model plan" means a health plan as
22 required in RCW 70.47.060(2)(d).

23 (4) "Basic health plan services" means that schedule of covered
24 health services, including the description of how those benefits are
25 to be administered, that are required to be delivered to an enrollee
26 under the basic health plan, as revised from time to time.

27 (5) "Certification" means a determination by a review
28 organization that an admission, extension of stay, or other health
29 care service or procedure has been reviewed and, based on the
30 information provided, meets the clinical requirements for medical
31 necessity, appropriateness, level of care, or effectiveness under the
32 auspices of the applicable health benefit plan.

33 (6) "Concurrent review" means utilization review conducted during
34 a patient's hospital stay or course of treatment.

35 (7) "Covered person" or "enrollee" means a person covered by a
36 health plan including an enrollee, subscriber, policyholder,
37 beneficiary of a group plan, or individual covered by any other
38 health plan.

1 (8) "Dependent" means, at a minimum, the enrollee's legal spouse
2 ~~and unmarried dependent children, and children of dependent children~~
3 who qualify for coverage under the enrollee's health benefit plan.

4 (9) "Eligible employee" means an employee who works on a full-
5 time basis with a normal work week of thirty or more hours. The term
6 includes a self-employed individual, including a sole proprietor, a
7 partner of a partnership, and may include an independent contractor,
8 if the self-employed individual, sole proprietor, partner, or
9 independent contractor is included as an employee under a health
10 benefit plan of a small employer, but does not work less than thirty
11 hours per week and derives at least seventy-five percent of his or
12 her income from a trade or business through which he or she has
13 attempted to earn taxable income and for which he or she has filed
14 the appropriate internal revenue service form. Persons covered under
15 a health benefit plan pursuant to the consolidated omnibus budget
16 reconciliation act of 1986 shall not be considered eligible employees
17 for purposes of minimum participation requirements of chapter 265,
18 Laws of 1995.

19 (10) "Emergency medical condition" means the emergent and acute
20 onset of a symptom or symptoms, including severe pain, that would
21 lead a prudent layperson acting reasonably to believe that a health
22 condition exists that requires immediate medical attention, if
23 failure to provide medical attention would result in serious
24 impairment to bodily functions or serious dysfunction of a bodily
25 organ or part, or would place the person's health in serious
26 jeopardy.

27 (11) "Emergency services" means otherwise covered health care
28 services medically necessary to evaluate and treat an emergency
29 medical condition, provided in a
30 hospital emergency department.

31 (12) "Enrollee point-of-service cost-sharing" means amounts paid
32 to health carriers directly providing services, health care
33 providers, or health care facilities by enrollees and may include
34 copayments, coinsurance, or deductibles.

35 (13) "Grievance" means a verbal or written complaint submitted by
36 or on behalf of a covered person regarding: (a) Denial of payment for
37 medical services or nonprovision of medical services ~~included in the~~
38 ~~covered person's health benefit plan~~, or (b) service delivery issues
39 other than denial of payment for medical services or nonprovision of

1 medical services, including dissatisfaction with medical care,
2 waiting time for medical services, provider or staff attitude or
3 demeanor, or dissatisfaction with service provided by the health
4 carrier.

5 (14) "Health care facility" or "facility" means hospices licensed
6 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
7 rural health care facilities as defined in RCW 70.175.020,
8 psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes
9 licensed under chapter 18.51 RCW, community mental health centers
10 licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment
11 centers licensed under chapter 70.41 RCW, ambulatory diagnostic,
12 treatment, or surgical facilities licensed under chapter 70.41 RCW,
13 drug and alcohol treatment facilities licensed under chapter 70.96A
14 RCW, and home health agencies licensed under chapter 70.127 RCW, and
15 includes such facilities if owned and operated by a political
16 subdivision or instrumentality of the state and such other facilities
17 as required by federal law and implementing regulations.

18 (15) "Health care provider" or "provider" means:

19 (a) A person regulated under Title 18 or chapter 70.127 RCW, to
20 practice health or health-related services or otherwise practicing
21 health care services in this state consistent with state law; or

22 (b) An employee or agent of a person described in (a) of this
23 subsection, acting in the course and scope of his or her employment.

24 (16) "Health care service" or "health service" means that service
25 offered or provided by health care facilities and health care
26 providers relating to the prevention, cure, or treatment of illness,
27 injury, or disease.

28 (17) "Health carrier" or "carrier" means a disability insurer
29 regulated under chapter 48.20 or 48.21 RCW, a health care service
30 contractor as defined in RCW 48.44.010, or a health maintenance
31 organization as defined in RCW 48.46.020.

32 (18) "Health plan" or "health benefit plan" means any policy,
33 contract, or agreement ~~offered~~ issued by a health carrier to provide,
34 arrange, reimburse, or pay for health care services except the
35 following:

36 (a) Long-term care insurance governed by chapter 48.84 RCW;

37 (b) Medicare supplemental health insurance governed by chapter
38 48.66 RCW;

1 (c) Limited health care services offered by limited health care
2 service contractors in accordance with RCW 48.44.035;

3 (d) Disability income;

4 (e) Coverage incidental to a property/casualty liability
5 insurance policy such as automobile personal injury protection
6 coverage and homeowner guest medical;

7 (f) Workers' compensation coverage;

8 (g) Accident only coverage;

9 (h) Specified disease and hospital confinement indemnity when
10 marketed solely as a supplement to a health plan;

11 (i) Employer-sponsored self-funded health plans;

12 (j) Dental only and vision only coverage; and

13 (k) Plans deemed by the insurance commissioner to have a short-
14 term limited purpose or duration, or to be a student-only plan that
15 is guaranteed renewable while the covered person is enrolled as a
16 regular full-time undergraduate or graduate student at an accredited
17 higher education institution, after a written request for such
18 classification by the carrier and subsequent written approval by the
19 insurance commissioner.

20 (19) "Material modification" means a change in the actuarial
21 value of the health plan as modified of more than five percent but
22 less than fifteen percent.

23 (20) "Medically necessary" means a health service which is
24 reasonably calculated to prevent, diagnose, correct, cure, alleviate
25 or prevent worsening of conditions in the enrollee that endanger
26 life, or cause suffering or pain, or result in an illness or
27 infirmity, or threaten to cause or aggravate a handicap, or cause
28 physical deformity or malfunction. There is no other equally
29 effective, more conservative and substantially less costly course of
30 treatment or site of service suitable for the enrollee requesting the
31 service. "Course of treatment" may include mere observation or,
32 where appropriate, no treatment at all.

33 ~~(20)~~ (21) "Open enrollment" means the annual sixty-two day period
34 during the months of July and August during which every health
35 carrier offering individual health plan coverage must accept onto
36 individual coverage any state resident within the carrier's service
37 area regardless of health condition who submits an application in
38 accordance with RCW 48.43.035(1).

1 ~~(21)~~ (22) "Preexisting condition" means any medical condition,
2 illness, or injury that existed any time prior to the effective date
3 of coverage.

4 ~~(22)~~ (23) "Premium" means all sums charged, received, or
5 deposited by a health carrier as consideration for a health plan or
6 the continuance of a health plan. Any assessment or any
7 "membership," "policy," "contract," "service," or similar fee or
8 charge made by a health carrier in consideration for a health plan is
9 deemed part of the premium. "Premium" shall not include amounts paid
10 as enrollee point-of-service cost-sharing.

11 (24) "Program" means any medical and health care,
12 pharmaceuticals, and medical equipment purchased with state only or
13 state and federal funds by the department of social and health
14 services, the department of health, the basic health plan, the state
15 health care authority, the department of labor and industries, the
16 department of corrections, and local school districts.

17 ~~(23)~~ (25) "Review organization" means a disability insurer
18 regulated under chapter 48.20 or 48.21 RCW, health care service
19 contractor as defined in RCW 48.44.010, or health maintenance
20 organization as defined in RCW 48.46.020, and entities affiliated
21 with, under contract with, or acting on behalf of a health carrier to
22 perform a utilization review.

23 ~~(24)~~ (26) "Small employer" means any person, firm, corporation,
24 partnership, association, political subdivision except school
25 districts, or self-employed individual that is actively engaged in
26 business that, on at least fifty percent of its working days during
27 the preceding calendar quarter, employed no more than fifty eligible
28 employees, with a normal work week of thirty or more hours, the
29 majority of whom were employed within this state, and is not formed
30 primarily for purposes of buying health insurance and in which a bona
31 fide employer-employee relationship exists. In determining the
32 number of eligible employees, companies that are affiliated
33 companies, or that are eligible to file a combined tax return for
34 purposes of taxation by this state, shall be considered an employer.
35 Subsequent to the issuance of a health plan to a small employer and
36 for the purpose of determining eligibility, the size of a small
37 employer shall be determined annually. Except as otherwise
38 specifically provided, a small employer shall continue to be
39 considered a small employer until the plan anniversary following the

1 date the small employer no longer meets the requirements of this
2 definition. The term "small employer" includes a self-employed
3 individual or sole proprietor. The term "small employer" also
4 includes a self-employed individual or sole proprietor who derives at
5 least seventy-five percent of his or her income from a trade or
6 business through which the individual or sole proprietor has
7 attempted to earn taxable income and for which he or she has filed
8 the appropriate internal revenue service form 1040, schedule C or F,
9 for the previous taxable year.

10 ~~(25)~~ (27) "Utilization review" means the prospective, concurrent,
11 or retrospective assessment of the necessity and appropriateness of
12 the allocation of health care resources and services of a provider or
13 facility, given or proposed to be given to an enrollee or group of
14 enrollees.

15 ~~(26)~~ (28) "Wellness activity" means an explicit program of an
16 activity consistent with department of health guidelines, such as,
17 smoking cessation, injury and accident prevention, reduction of
18 alcohol misuse, appropriate weight reduction, exercise, automobile
19 and motorcycle safety, blood cholesterol reduction, and nutrition
20 education for the purpose of improving enrollee health status and
21 reducing health service costs.

22 Sec. 7 RCW 41.05.011 and 1998 c 341 s 706 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section shall apply throughout this chapter and sections 3
26 through 5, and 8 through 16 of this act.

27 (1) "Administrator" means the administrator of the authority.

28 (2) "State purchased health care" or "health care" means medical
29 and health care, pharmaceuticals, and medical equipment purchased
30 with state and federal funds by the department of social and health
31 services, the department of health, the basic health plan, the state
32 health care authority, the department of labor and industries, the
33 department of corrections, the department of veterans affairs, and
34 local school districts.

35 (3) "Authority" means the Washington state health care authority.

36 (4) "Insuring entity" means an insurer as defined in chapter
37 48.01 RCW, a health care service contractor as defined in chapter

1 48.44 RCW, or a health maintenance organization as defined in chapter
2 48.46 RCW.

3 (5) "Flexible benefit plan" means a benefit plan that allows
4 employees to choose the level of health care coverage provided and
5 the amount of employee contributions from among a range of choices
6 offered by the authority.

7 (6) "Employee" includes all full-time and career seasonal
8 employees of the
9 state, whether or not covered by civil service; elected and appointed
10 officials of the executive branch of government, including full-time
11 members of boards, commissions, or committees; and includes any or
12 all part-time and temporary
13 employees under the terms and conditions established under this
14 chapter by the authority; justices of the supreme court and judges of
15 the court of appeals and the superior courts; and members of the
16 state legislature or of the legislative authority of any county,
17 city, or town who are elected to office after February 20, 1970.

18 "Employee" also includes:

19 (a) Employees of a county, municipality, or other political
20 subdivision of the state if the legislative authority of the county,
21 municipality, or other political subdivision of the state seeks and
22 receives the approval of the authority to provide any of its
23 insurance programs by contract with the authority, as provided in RCW
24 41.04.205;

25 (b) employees of employee organizations representing state civil
26 service employees, at the option of each such employee organization,
27 and, effective October 1, 1995, employees of employee organizations
28 currently pooled with employees of school districts for the purpose
29 of purchasing insurance benefits, at the option of each such employee
30 organization; and (c) employees of a school district if the authority
31 agrees to provide any of the school districts' insurance programs by
32 contract with the authority as provided in RCW 28A.400.350.

33 (7) "Board" means the (~~(public employees' benefits)~~) Washington
34 health insurance plan board established under RCW 41.05.055.

35 ~~(7)~~ (8) "Retired or disabled school employee" means:

36 (a) Persons who separated from employment with a school district or
37 educational service district and are receiving a retirement allowance
38 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32 or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW.

(9) "Small employer group" means the eligible employees and dependents of a small employer, as those terms are described in RCW 48.43.005, who are enrolled in the Washington health insurance plan by the small employer.

~~(9)~~ (10) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

~~(10)~~ (11) "Salary" means a state employee's monthly salary or wages.

~~(11)~~ (12) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

(13) "Plan" means the Washington health insurance plan created in section (3) of this act.

~~(12)~~ (14) "Plan year" means the time period established by the authority.

(15) "Private pay" means enrollees in the Washington health insurance plan whose premiums are not paid with state or federal funds.

~~(13)~~ (16) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(11) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan III as defined in RCW 41.32.010(40) or the Washington school employees' retirement system plan III as defined in RCW 41.35.010.

1 (17) "Stop loss policy" means a policy issued to and for the
2 purposes of insuring the employer, the trustee or other sponsor of a
3 benefit plan for providing health services, or the benefit plan
4 itself, but not the employees, members, or participants for which
5 payment by the insurer must be made to the employer, the trustee, or
6 other sponsor of the benefit plan or the benefit plan itself, but not
7 to the employees, members, participants, or health care providers;
8 and the policy must contain a provision that establishes an aggregate
9 attaching point or retention that is at the minimum one hundred
10 twenty percent of the expected claims; and the policy may provide for
11 an individual attaching point or retention that is not less than five
12 percent of the expected claims or one hundred thousand dollars,
13 whichever is less.

14 NEW SECTION. Sec. 8. A new section is added to chapter 74.09
15 RCW to read as follows:

16 The powers, duties and functions of the Washington state medical
17 assistance administration are transferred to the Washington health
18 care authority. All applicable references to the secretary of the
19 department of social and health services in chapter 74.09 Revised
20 Code of Washington shall be construed to mean the administrator of
21 the health care authority.

22 NEW SECTION. Sec. 9. A new section is added to chapter 70.47
23 RCW to read as follows:

24 The provisions of the basic health plan, as required by the
25 chapter, shall be administered in a manner consistent with this act.

26 NEW SECTION. Sec. 10. (1) By January 1 following adoption of
27 this act, the governor must submit to the legislature all necessary
28 legislation for all technical changes required to fully reflect this
29 act in statute and all budget recommendations that are necessary to
30 accomplish the purpose and intent of this act.

31 (2) By January 1 of the second year following adoption of this
32 act, the Legislature shall conduct a sunset study to determine
33 whether the Washington state health insurance pool established in
34 chapter 48.41 RCW should have its powers, duties and functions
35 transferred to the plan.

1 NEW SECTION. Sec. 11. A new section is added to chapter 41.05
2 RCW to read as follows:

3 The Washington health insurance plan shall be funded through
4 private pay premiums, state funds, and contributions to the
5 Washington health insurance plan financial participation program as
6 described in section 4 of this act. The state shall fully fund its
7 fiscal responsibilities under this act, including the funding
8 required to maximize federal funding participation and plan
9 administrative costs for enrollees eligible under the public employee
10 benefit plans established pursuant to chapter 41.05 RCW; the basic
11 health plan established pursuant to chapter 70.47 RCW, medicaid
12 programs, state funded medical assistance, and the children's health
13 insurance program established under this chapter for coverage in the
14 Washington health insurance plan. Additional public funds which may
15 be necessary to implement the Washington health insurance plan shall
16 be supplemented through increases in the tobacco tax as authorized
17 under chapters 82.24 and 82.26 RCW, any tobacco settlement funds, the
18 maximizing of federal funds available based on the income of an
19 enrollee, and efficiencies in the purchasing and administration of
20 all state health programs under the Washington health insurance plan.
21 All funds necessary to implement this act and to administer and
22 maintain the Washington health insurance plan shall be transferred
23 from the state general fund to the Washington health insurance plan
24 account established in section 12 of this act.

25 NEW SECTION. Sec. 12. A new section is added to chapter 41.05
26 RCW to read as follows:

27 The Washington health insurance plan account is created in the
28 state treasury. Any funds collected for the Washington health
29 insurance plan shall be deposited in the Washington health insurance
30 plan account. Moneys in the account shall be used exclusively for
31 the purposes of this chapter, including payments of costs of
32 administering the plan.

33 NEW SECTION. Sec. 13. A new section is added to chapter 43.135
34 RCW to read as follows:

35 (1) Initiative Measure No. 601 (this chapter and the amendatory
36 changes enacted by section 6, chapter 2, Laws of 1994) is hereby
37 reenacted and reaffirmed. The legislature also adopts this act to

1 continue the general fund revenue and expenditure limitations
2 contained in this chapter after this one-time transfer of funds.

3 (2) RCW 43.135.035 does not apply to RCW 41.05.011, 41.05.055,
4 and sections 3, 4, and 8 through 12 of this act.

5 NEW SECTION. Sec. 14. A new section is added to chapter 43.135
6 RCW to read as follows:

7 Should Initiative Measure No. 695 be approved by the people, any
8 provision of this act and any tax increase, including, but not
9 limited to, a new tax, a monetary increase in an existing tax, a tax
10 rate increase, an expansion in the legal definition of a tax base,
11 and an extension of an expiring tax that funds any requirement of
12 this act shall be exempt from the provisions of Initiative Measure
13 No. 695.

14 NEW SECTION. Sec. 15. If this act is adopted by the
15 legislature, the year in which the implementation dates in this act
16 are effective is 2000. If this act is adopted by the people, the
17 year in which the implementation dates in this act are effective is
18 2001.

19 NEW SECTION. Sec. 16. Nothing in this act shall be deemed to
20 impair a contract in existence on the effective date of this section.

21 NEW SECTION. Sec. 17. The following acts or parts of acts are
22 each repealed:

23 (1) RCW 48.43.075 (Informing patients about their care--Health
24 carriers may not preclude or discourage) and 1996 c 312 s 2;

25 (2) RCW 48.43.095 (Information provided to an enrollee or a
26 prospective enrollee) and 1996 c 312 s 4; and

27 (3) RCW 48.43.105 (Preparation of documents that compare health
28 carriers--Immunity--Due diligence) and 1996 c 312 s 5.

29 NEW SECTION. Sec. 18. If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

1 NEW SECTION. Sec. 19. This act may be known and cited as the
2 patient protection and health care access act.

3 NEW SECTION. Sec. 20. Sections 4 and 5 of this act take effect
4 on July 1 following the adoption of this act.